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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,483	08/22/2003	Yasuo Sato	1021.43058X00	8730

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EXAMINER

GANDHI, JAYPRAKASH N

ART UNIT	PAPER NUMBER
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2125

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/645,483	Applicant(s) SATO ET AL.	
	Examiner Jayprakash N. Gandhi	Art Unit 2125	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/22/03 & 10/11/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 is indefinite because line 2, "power facility ***that can be linked*** to an electrical ---", the patentability cannot depend on a contingency (when), what happens when not linked.

In claim 2, the preamble is functional "controller ***for*** controlling electrical power equipment---", while in claims 3 and 4, refer to ***the*** electrical equipment. Such inconsistent reference to the same part obscure the intended scope of the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

— A person shall be entitled to a patent unless —

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 2125

4. Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Nierlich et al. (US 2003/0158632 A1).

5. Regarding claims 1-11, Nierlich discloses all the structure limitation of a coordination controller 4 (figure 1), wherein the controller includes, a communication with outside, monitoring current time, synchronizing time, a control schedule (connection thru 12). It is to be noted that "electrical power-consuming apparatus", "electrical power generating apparatus", or "electrical power facility" is not positively claimed elements; therefore the controller 4 of Nierlich, meets the functional claimed invention. A recitation of the intended use (*for*) of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Detail Description Paragraph - DETX (18):

[0049] Preferably, the E1-2000 **synchronizes** its internal clock with the system clock of the management device 10 after it validates its Application Software. Synchronization allows the management device 10 to track load profiles and curtailment events in **real-time**. The E1-2000 4 then compares the date and **time** ("timestamp") of its Configuration File with the configuration timestamp stored in management device memory. If the Configuration File attributes differ from the stored attributes, the E1-2000 4 downloads an updated Configuration File that preferably includes the E1-2000 callback frequency, its meter designations, its pulse accumulator device identity, its meter multiplier coefficients, its meter polling frequency, and its Watermark boundaries assigned to each meter the E1-2000 4 supports. All expired data in memory is then flushed before logging off of the management device 10 and disconnecting from the ISP 12.

Detail Description Paragraph - DETX (19):

[0050] Once the E1-2000 4 is initialized, preferably the E1-2000 4 connects to the ISP 12 in response to a number of events. The E1-2000 connects to the ISP 12 at its **scheduled** callback intervals, when a Watermark violation occurs, or when initiated by a ring instruction. The **scheduled** callback intervals establish a standard **schedule** of connections between the E1-2000 4 and the management device 10. In this event, the E1-2000 4 automatically connects to the management device 10 at programmed intervals at which **time** the E1-2000 4 uploads all of its meter and operating data to the management device.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Enga et al., Ellis, Jeong et al., and Patterson disclose related art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jayprakash N. Gandhi whose telephone number is 571-272-3740. The examiner can normally be reached on 6:30-5:00 (Mon. - Thu.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo P. Picard can be reached on 571-272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jayprakash N Gandhi
Primary Examiner
Art Unit 2125

jng